

REMARKS

Claims 1 – 26 have been examined. All the claims stand rejected under 35 U.S.C. §102(b) as anticipated by U.S. Pat. No. 5,734,853 (“Hendricks”). The rejections are respectfully traversed.

Hendricks describes a television-program delivery system that has aspects resembling a pay-per-view system like that described by Applicants in the Background of the Invention (*see* Application, p. 1, ll. 29 – 32). Notably, the delivery of programming relies, like traditional pay-per-view systems, on a linear schedule of programming. This may be illustrated with the example of Fig. 22, relied on in the Office Action. In particular, the series of Figs. 22a – 22d of Hendricks shows a system in which a menu system is used to allow a subscriber to select a program (*see generally*, Hendricks, Col. 38, l. 36 – Col. 39, l. 48). A variety of subcategories are shown in Fig. 22a, the selection of which presents a list of programs in Fig. 22b, one of which may be selected (*id.*, Col. 38, ll. 43 – 60). The selection provides a description of the selection in Fig. 22c, with an opportunity to order access to the program and to confirm the order with the screen shown in Fig. 22d (*id.*, Col. 38, l. 61 – Col. 39, l. 12).

With the system in Hendricks, the subscriber is merely provided with *access* to a program as it is transmitted according to a fixed schedule. The subscriber is not provided with *program control*, which would allow the subscriber to manipulate progression of the program by execution of such functions of FAST FORWARD, REWIND, or PAUSE, among others (Application, p. 15, l. 31 – p. 16, l. 2). All of the independent claims recite a limitation related to such program control in the form of detecting a request for program control of a particular program segment, determining whether to grant program control to the user, granting program control to the user, etc. These limitations are neither taught nor suggested by Hendricks.

Indeed, Hendricks recognizes that its use of a fixed programming schedule is limiting, and suggests a partial accommodation to subscribers by staggering multiple copies of the same program (Hendricks, Col. 38, l. 65 – Col. 39, l. 1). The existence of such prior-art schemes was acknowledged by Applicants, while at the same time noting that they suffered from

Appl. No. 09/687,139
Amdt. dated November 14, 2003
Reply to Office Action of September 29, 2003 (paper no. 6)

PATENT


the disadvantage that no program control was available (Application, p. 2, ll. 1 – 3). While Hendricks describes a system in which subscribers are constrained by a fixed schedule and are provided only with passive access to a program, the pending claims embody methods and systems without such constraints.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,


Patrick M. Boucher
Reg. No. 44,037

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 303-571-4000
Fax: 415-576-0300
PMB:pmb
60067059 v1